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12 **UNITED STATES DISTRICT COURT**

13 **DISTRICT OF NEVADA**

14  
15 HURRICANE ELECTRIC LLC,  
16 Plaintiffs,

17 v.

18 MILLENNIUM FUNDING, INC., et al.  
19 Defendants.

Case No.: 2:20-cv-01034-JCM-DJA

**STIPULATION TO STAY ACTION  
PENDING RULING ON CO-PENDING  
INSURANCE ACTION BY PLAINTIFF  
AGAINST ITS INSURER**

**(FIRST REQUEST FOR STAY)**

21 Whereas, HURRICANE ELECTRIC, LLC ("Plaintiff"), through its counsel Neil D.  
22 Greenstein and Joshua M. Dickey, and MILLENNIUM FUNDING, INC.; BODYGUARD  
23 PRODUCTIONS, INC.; UN4 PRODUCTIONS, INC.; HOMEFRONT PRODUCTIONS, INC.;  
24 MILLENNIUM MEDIA, INC.; CRIMINAL PRODUCTIONS, INC.; CLEAR SKIES NEVADA,  
25 LLC; HUNTER KILLER PRODUCTIONS, INC.; LHF PRODUCTIONS, INC.; RAMBO V  
26 PRODUCTIONS, INC.; FALLEN PRODUCTIONS, INC.; WICKED NEVADA, LLC; 211  
27 PRODUCTIONS, INC.; FATHERS & DAUGHTERS NEVADA, LLC; VOLTAGE  
28 DEVELOPMENT NCCF, LLC; HB PRODUCTIONS, INC.; STATUS UPDATE, LLC; STOIC

1 PRODUCTIONS, INC.; COBBLER NEVADA, LLC; SURVIVOR PRODUCTIONS, INC.;  
 2 TREVOR SHORT; and AVI LERNER (“Defendants”), through their counsel Kerry S. Culpepper  
 3 and F. Christopher Austin, stipulate for an order staying this action, pending resolution of Plaintiff’s  
 4 insurer’s duty to defend in the case entitled *Hurricane Electric, LLC vs. National Fire Insurance*  
 5 *Company of Hartford*, 3:20-cv-05840-CRB pending in the U.S. District Court for the Northern  
 6 District of California (“Co-Pending Insurance Action”). Plaintiff and the Defendants are referred to  
 7 collectively as “Parties.” Finally, the Parties have agreed that Defendants’ answers or other  
 8 responses to the complaint should be set a minimum of 60-days after the stay is lifted so that the  
 9 parties can engage in a settlement conference with Magistrate Judge Hixson in the case entitled  
 10 *Hurricane Electric, LLC vs. Dallas Buyers Club, LLC et al.*, 3:20-CV-3813-CRB also pending in  
 11 the United States District Court for the Northern District of California (“Co-Pending Copyright  
 12 Action”) after the ruling in the Co-Pending Insurance Action.

13       Whereas, the Court entered the First Stipulation to Extend Defendants’ Deadline to Answer  
 14 and/or Respond to Complaint [Doc. #20]. The First Stipulation granted Defendants up until October  
 15 2, 2020 to respond to the Complaint.

16       Whereas, the Court entered the Second Stipulation to Extend Defendants’ Deadline to  
 17 Answer and/or Respond to Complaint [Doc. #23]. The Second Stipulation granted Defendants up  
 18 until November 2, 2020 to respond to the Complaint.

19       Whereas, the Co-pending Copyright Action was referred to Magistrate Judge Hixson of  
 20 the U.S. District Court for the Northern District of California for conducting an early Settlement  
 21 Conference per the Parties’ request;

22       Whereas, Magistrate Judge Hixson agreed to conduct the Settlement Conference on behalf  
 23 of the plaintiff and the defendants in both this Action and the Co-Pending Copyright Action so  
 24 that both disputes could be resolved together;

25       Whereas, the Parties have concluded, and Magistrate Judge Hixson after holding two  
 26 telephonic hearings agreed, that an early Settlement Conference would not be fruitful until after  
 27 the dispute over the insurer’s duty to defend between Plaintiff and its insurer, National Fire  
 28 Insurance Company of Hartford (“NFI”), in the Co-Pending Insurance Action has been resolved

1 or at least substantial progress has been made toward a resolution. A copy of the minutes from  
2 the October 12, 2020 scheduling conference with Magistrate Hixson is attached hereto as Exhibit  
3 1.

4 Whereas, on October 9, 2020, in the Co-Pending Insurance Action Plaintiff filed a Motion  
5 For Partial Summary Judgment On National Fire's Duty To Defend Hurricane Electric in the  
6 dispute with defendants here and in the Co-Pending Copyright Action.

7 Whereas the Parties have agreed that all parties in this Action shall reserve all rights and  
8 that this requested stay, and the slight delay in this Action, shall not be construed in any manner  
9 for or against any party on any issue, whether substantive or procedural.

10 Whereas, the Parties believe that there will be no "possible damage which may result from  
11 the granting of a stay" or "hardship or inequity which a party may suffer" since the parties have  
12 also agreed in the Northern District of California Action that parties will be allowed to conduct  
13 limited third party discovery to preserve evidence. *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110  
14 (9th Cir. 2005) (quoting *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962)). Moreover,  
15 consideration of "the orderly course of justice measured in terms of the simplifying or  
16 complicating issues" supports granting a stay since a stay will eliminate distraction of anticipated  
17 motion practice between the parties until after the dispute between Plaintiff and its insurer, NFI,  
18 in the Co-Pending Insurance Action has been resolved or at least substantial progress has been  
19 made, thereby simplifying the issues. *Id.*

20 Whereas, the Northern District of California entered a Stay of the Co-Pending Copyright  
21 Action on October 19, 2020 per the Parties' joint stipulation similar to the stipulation and order  
22 requested in the present action. For the Court's convenience, a filed stamped copy of the  
23 Stipulation and Order of Stay issued by Northern District of California in the Co-Pending  
24 Copyright Action is attached hereto as Exhibit 2.

25 IT IS HEREBY STIPULATED AND AGREED by the Parties that this Action be  
26 STAYED.

1 The Parties intend to resume the settlement conference proceedings with Magistrate Judge  
2 Hixson in the Co-Pending Copyright Action after the Co-Pending Insurance Action has been  
3 resolved or substantially progressed.

4 The Parties shall file a status report with this Court by January 4, 2021, or if sooner,  
5 promptly after the settlement conference is conducted in the Co-Pending Copyright Action.

6  
7 Dated this 23rd day of October, 2020.

8 **CULPEPPER IP, LLC**

9  
10 By: /s/ Kerry S. Culpepper  
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16 *Attorneys for Defendants*

Dated this 23rd day of October, 2020.

**BAILEY ♦ KENNEDY**

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*Attorneys for Plaintiff*  
Hurricane Electric LLC

17  
18  
19 IT IS SO ORDERED:

20  
21  
22 UNITED STATES DISTRICT JUDGE

23  
24 DATED: \_\_\_\_\_  
25  
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